

Summary

Liability based on Fault and the Concept of Fault in Czech and German Law of Torts

The aim of the thesis is an introduction and comparison of the Czech and German law of torts – a branch of law which determines liability for damage caused by breach of a duty imposed by law – in the area of liability based on fault and an introduction and comparison of the concept of fault as one of the conditions for the application of this liability. That the subject is tort law of these two particular countries is not an act of arbitrariness, but it relates to the fact that the new Civil Code of 2012 is significantly inspired by the German system of tort law in the field of liability based on fault. This thesis attempts to provide not only comparison of the Civil Code No. 40/1964 Sb. with the new Civil Code of 2012, but also comparison with the German Civil Code - BGB.

The thesis consists of four parts – „The Concept of Law of Torts“, „General Conditions of Liability in the basic tort Provisions“, „The Concept of fault and its forms“ and „Liability based on fault“. Every part except the first is subdivided into three chapters. Every chapter deals with one of the civil codes – Civil Code No. 40/1964 Sb., German Civil Code and the new Civil Code of 2012.

Part One outlines briefly the concept of tort law and its goals, namely just compensation for damage, prevention from damage and effective distribution of the risk of damages.

Part Two deals with an introduction and comparison of basic tort provisions in the said civil codes and general conditions of liability which are laid down in these provisions. Among other things there is a definition of unlawful act, damage, causation and fault in the context of analysed regulations.

In Part Three the concept of fault and its forms are analysed in more detail. Author describes different concepts of intention and negligence in Czech and German tort law and legal theory and attempts to interpret these concepts in the system of torts in the new Civil Code of 2012.

Part Four is focused on other provisions regulating liability based on fault - liability for intentional damage caused contrary to good morals, liability for auxiliaries (vicarious liability), liability for minors or mentally disabled persons, liability for damage caused by animals etc.

Except for the descriptive and comparative aspect, this thesis also provides an interpretation of the provisions regulating fault-based liability in the new Civil Code of 2012 and a critical assessment of this regulation, which is summarized in the conclusion of the thesis.